

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Kotzin )  
)  
For: A Method and System for )  
Managing Access to Presence )  
Attribute Information )  
)  
Serial No.: 10/749,321 )  
)  
Filed: December 31, 2003 )  
)  
Examiner: Lee, C. )  
)  
Art Unit: 2181 )

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Commissioner for Patents  
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Attention: Board of Patent Appeals and Interferences

**APPELLANT'S BRIEF**

This brief is being filed in furtherance of the NOTICE OF APPEAL and PRE-APPEAL BRIEF REQUEST FOR REVIEW, filed on November 16, 2006, and NOTICE of PANEL DECISION, mailed on December 20, 2006, identifying that the Appeal should proceed to the Brief filing stage. The panel decision reset the time period for filing the appeal brief to one month from the mailing of the panel decision.

Any fees required under §41.20, and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 41.37(c)):

I REAL PARTY IN INTEREST

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## **I. REAL PARTY IN INTEREST**

The real party in interest in this appeal is Motorola, Inc., a Delaware corporation.

## **II. RELATED APPEALS AND INTERFERENCES**

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal, there are no such appeals or interferences.

## **III. STATUS OF CLAIMS**

### **A. Status of all claims in the proceeding**

1.	Claims rejected:	1-23
2.	Claims allowed:	none
3.	Claims withdrawn:	none
4.	Claims objected to:	none
5.	Claims cancelled:	none

## **B. Identification of claims being appealed**

The claims on appeal are: 1-23

## **IV. STATUS OF AMENDMENTS**

No Amendments have been filed subsequent to the recent final rejection, dated August 16, 2006.

## **V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

A first aspect of the present invention (claim 1), which is being appealed, pertains to a presence attribute information server (22). The presence attribute information server (22) includes a processor (26), an interface unit (30) and a storage unit (28). The interface unit (30), which is coupled to the processor (26), includes a network interface (32) for receiving and transmitting user presence attribute information (page 8, lines 16-17). The storage unit (28), which is coupled to the interface unit (30) and the processor (26), includes user presence attribute information (24) and associated access authorization information (25), that is organized and arranged as one or more entries in a data structure (page 8, lines 5-9). The access authorization entries (60) are each associated with corresponding user presence attribute information entries (44). Each user presence attribute information entry (44) has a presence attribute value field (48), a user field, and one or more access condition entries (page 8, lines 5-9). The presence attribute value field (48) corresponds to one or more types of presence attributes (46), the user field (62) identifies one or more users (page 12, lines 15-17), and the one or more access condition entries define the conditions when the corresponding user presence attribute information is available to the corresponding identified one or more users (page 12, lines 17-19).

A further aspect of the present invention (claim 15), which is being appealed, pertains to a presence attribute information manager application. The presence attribute information manager application includes a processor (26), an interface unit (30) and a storage unit (28). The

interface unit (30), which is coupled to the processor (26), includes a data input device (42) for receiving user presence attribute information from the user (page 10, lines 6-10) and a network interface (32) for transmitting user presence attribute information (page 9, line 29 to page 10, line 2). The storage unit (28), which is coupled to the interface unit (30) and the processor (26), includes user presence attribute information (24) and associated access authorization information (25), that is organized and arranged as one or more entries in a data structure (page 8, lines 5-9).

The access authorization entries (60) are each associated with corresponding user presence attribute information entries (44). Each user presence attribute information entry (44) has a presence attribute value field (48), a user field (62), and one or more access condition entries (page 8, lines 5-9). The presence attribute value field (48) corresponds to one or more types of presence attributes (46), the user field (62) identifies one or more users (page 12, lines 15-17), and the one or more access condition entries define the conditions when the corresponding user presence attribute information is available to the corresponding identified users (page 12, lines 17-19).

A still further aspect of the present invention (claim 23), which is being appealed, pertains to a method (100) for managing the access to user presence attribute information. The method (100) includes receiving a request (102) for user presence attribute information. The user requesting the user presence attribute information is then identified (104). A determination is then made as to whether the user requesting the information is authorized to have access to the requested user presence attribute information (page 15, lines 3-5). The determination of whether the user requesting the information is authorized includes receiving (106) any conditions relative to the requesting user associated with receiving access to the information. A determination (108) is then made as to whether the received conditions associated with receiving access have been met. If the user has met the conditions associated with receiving access (page 15, lines 9-10), the user presence attribute information is then forwarded (110) to the requesting user.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Whether claims 1, 6, 7, 10, 11, 15, 16 and 19-22 have been improperly rejected under 35 U.S.C. 102(e), as being anticipated by Raverdy et al., U.S. Patent No. 6,957,217.

2. Whether claims 2-5, 13, 14 and 23 have been improperly rejected under 35 U.S.C. 103(a), as being unpatentable over Raverdy et al., '217, in view of Wade et al., U.S. Patent No. 5,552,776.

3. Whether claims 8, 9, 17 and 18 have been improperly rejected under 35 U.S.C. 103(a), as being unpatentable over Raverdy et al., '217, in view of Fushiki et al., U.S. Patent No. 6,433,704.

4. Whether claim 12 has been improperly rejected under 35 U.S.C. 103(a), as being unpatentable over Raverdy et al., '217, in view of Kruse et al., U.S. Patent No. 6,684,279.

## **VII. ARGUMENT**

### **A. Rejections under 35 U.S.C. 102**

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

1. Whether claims 1, 6, 7, 10, 11, 15, 16 and 19-22 have been improperly rejected under 35 U.S.C. 102(e), as being anticipated by Raverdy et al., U.S. Patent No. 6,957,217.

Here the reference fails to make known each and every feature of the claims, where the invention as defined by the claims are not shown in as complete detail as is contained in the

claims. More specifically, in mapping elements from the cited reference(s), which is alleged to be equivalent to allegedly corresponding elements from the claims, the Examiner has failed to show how the alleged equivalent elements interact in with one another in a manner, which is equivalent to the claimed interactions of the allegedly equivalent claimed elements. In absence of such a showing, it cannot be said that each and every feature of the claims is shown to be made known or obvious by the cited reference in as complete detail as is contained in the claims, and therefore the elements from the reference can not be said to be equivalent to the elements from the claims they are said to make known. In other words, in attempting to reject the claims, the Examiner has attempted to address each of the elements in piecemeal fashion, without regard to preserving the manner in which the claimed elements interact, and/or showing how the cited reference makes known or obvious the same. The Examiner's alleged equivalent elements fail to interact with one another in a manner which is contextually consistent with the claimed interactions. As a result, the alleged equivalent structure can not in fact be deemed to be an equivalent structure, in so far as the alleged equivalent elements do not preserve or possess each and every aspect or interaction associated with the corresponding claimed element.

#### Claims 1 and 15

Relative to claims 1 and 15, the Examiner has attempted to identify the reference as making known "user presence attribute information" and separately making known "access authorization information entries", but fails to show how the "access authorization information entries" define the conditions when the corresponding "user presence attribute information" is available to the corresponding identified one or more users identified in a user field. It is not enough to attempt to allege the presence (i.e. teaching) of alleged equivalent structure in isolation, but the equivalent structure, in order to be truly equivalent structure, must interact with the other identified equivalent structure in a manner, which is consistent with the claims.

Not only do the alleged equivalent elements fail to interact in a manner, which is consistent with each and every feature of the claims, but in at least some instances, the alleged equivalent element can not be said to be equivalent. For example, the event information, which

appears to be alleged by the Examiner as making known or obvious the claimed user presence information, as the name implies is associated with an event and is not an attribute which conveys information about a user's presence in a manner which is consistent with the understanding of one skilled in the art. Similarly, the noted time-stamp access information is similarly not equivalent to user presence attribute information.

Nevertheless, in the Examiner's final rejection of the claims, the Examiner has focused on the time stamp information as corresponding to the user device's current (communication) situation or status (i.e. presumably alleged as being equivalent to user presence attribute information on page 2, last three lines of most recent action), but then fails to show how this information (time stamp information) is made available to one or more users, which have been identified in a user field (no allegedly equivalent structure corresponding to a user field has been identified), and failed to identify corresponding access conditions defined by access condition entries, that when met allow the user presence attribute information (time stamp information) to be available to the one or more users. First there is no user field associated with the time stamp information that defines the users for which conditional access to the time stamp information is allowed. Furthermore, there are no noted access condition entries identified, which set the conditions for availability of the time stamp information.

The Examiner further attempts to identify user profile providing information such as the connection usage traits as alternatively or additionally being equivalent to the user device's current (communication) situation or status (i.e. again presumably alleged as being equivalent to user presence attribute information on page 3, first two lines of most recent action), but similarly fails to associate the information with a user field which identifies one or more users for which access to the user presence attribute information is conditionally authorized, and further fails to identify one or more associated access condition entries, which define the condition under which access is authorized. Absent such a showing an alleged anticipation of independent claims 1 and 15 can not be maintained, and should be withdrawn.

Claims 6, 7, 10, 11, 16 and 19-22

Claims 6, 7, 10, 11, 16 and 19-22 being dependent, either directly or indirectly, upon claims 1 and 15, will similarly not be anticipated by the reference being relied upon by the Examiner, and therefore the rejection relative to these claims should similarly be withdrawn.

**B. Rejections under 35 U.S.C. 103**

2. Whether claims 2-5, 13, 14 and 23 have been improperly rejected under 35 U.S.C. 103(a), as being unpatentable over Raverdy et al., ‘217, in view of Wade et al., U.S. Patent No. 5,552,776.

Claims 2-5, 13 and 14

To the extent that claims 2-5, 13 and 14 each incorporate still further features, in addition to the features in independent claim 1, upon which claims 2-5, 13 and 14 depend, either directly or indirectly, the additional features would only serve to further distinguish the claims. Because a suitable rejection of claim 1 has not yet been supported, and Wade et al., ‘776, fails to account for the above noted deficiencies claims 2-5, 13 and 14 are similarly allowable.

Claim 23

Relative to claim 23, the above noted defects relative to claims 1 and 15 are generally applicable to claim 23 to the extent that similar elements are claimed. Nevertheless, the Examiner’s rejection specific to claim 23 is further problematic in so far as the Examiner attempts to equate the status information as being equivalent to conditions. However the conditions define the circumstances under which the presence attribute information will be made available to the identified one or more users. Here similar to the above noted unaccounted for differences relative to claim 1 and 15, there has been no determination of the user requesting the



presence information (a user profile is not user presence information), nor has there been any conditions relative to authorized access which have been associated with a requesting user for purposes of accessing the user presence attribute information. The Examiner appears to alternatively associate “time-stamp access information” and “user profile information” as allegedly being equivalent to the claimed “user presence attribute information”, this inconsistency only serves to highlight the failure of the reference to make known each and every feature associated with a particular claimed element, as well as show where the same is conditionally provided to a requesting user, upon meeting the conditions for access.

Here the Examiner has similarly failed to make known each and every feature associated with each and every claimed element, in a manner which is consistent with claim 23, and therefore the same can not be said to be known or obvious in view of Raverdy et al., ‘217, by itself or in view of Wade et al., ‘776, which similarly fails to account for the above noted deficiencies.

3. Whether claims 8, 9, 17 and 18 have been improperly rejected under 35 U.S.C. 103(a), as being unpatentable over Raverdy et al., ‘217, in view of Fushiki et al., U.S. Patent No. 6,433,704.

#### Claims 8, 9, 17 and 18

To the extent that claims 8, 9, 17 and 18 each incorporate still further features, in addition to the respective features of independent claims 1 and 15, upon which claims 8, 9, 17 and 18 depend, either directly or indirectly, the additional features would only serve to further distinguish the claims. Because a suitable rejection of claims 1 and 15 have not yet been supported, and Fushiki et al., ‘704, fails to account for the above noted deficiencies relative to each of the corresponding independent claims, claims 8, 9, 17 and 18 are similarly allowable.

4. Whether claim 12 has been improperly rejected under 35 U.S.C. 103(a), as being unpatentable over Raverdy et al., '217, in view of Kruse et al., U.S. Patent No. 6,684,279.

Claim 12

To the extent that claim 12 incorporates still further features, in addition to the features in independent claim 1, upon which claim 12 depend, either directly or indirectly, the additional features would only serve to further distinguish the claim. Because a suitable rejection of claim 1 has not yet been supported, and Kruse et al., '279, fails to account for the above noted deficiencies relative to claim 1, claim 12 is similarly allowable.

The applicants would respectfully request that the Examiner's decision to finally reject the presently pending claims be overturned, and that the claims be permitted to proceed to allowance.

Respectfully submitted,

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## **VIII. APPENDIX OF CLAIMS**

The following is the text of the claims involved in this appeal:

1. A presence attribute information server comprising:  
  
a processor;  
  
an interface unit, coupled to the processor, including a network interface for receiving and transmitting user presence attribute information; and  
  
a storage unit, coupled to the interface unit and the processor, including user presence attribute information and associated access authorization information organized and arranged as one or more entries in a data structure;  
  
wherein said access authorization entries are each associated with corresponding user presence attribute information entries, each user presence attribute information entry having a presence attribute value field, corresponding to one or more types of presence attributes, and each access authorization information entry having a user field identifying one or more users and one or more access condition entries, wherein the access condition entries define the conditions when the corresponding user presence attribute information is available to the corresponding identified one or more users.
  
2. A presence attribute information server in accordance with claim 1 wherein at least one of the one or more access condition entries includes a predetermined period of time to be matched.

3. A presence attribute information server in accordance with claim 2 wherein the predetermined period of time includes a time of day.

4. A presence attribute information server in accordance with claim 2 wherein the predetermined period of time includes a day of the week.

5. A presence attribute information server in accordance with claim 2 wherein a predetermined period of time includes a point in time identifying the beginning of the predetermined period and a point in time identifying the end of the predetermined period.

6. A presence attribute information server in accordance with claim 1 wherein at least one of the one or more access condition entries includes a proximity relative to a predetermined location.

7. A presence attribute information server in accordance with claim 6 wherein the predetermined location includes a specific place.

8. A presence attribute information server in accordance with claim 6 wherein the predetermined location is the present position of at least one of another item or person.

9. A presence attribute information server in accordance with claim 6 wherein the

proximity corresponds to a predetermined distance.

10. A presence attribute information server in accordance with claim 6 wherein the location is relative to the at least one of item or person associated with the user presence attribute information.

11. A presence attribute information server in accordance with claim 6 wherein the location is relative to the user requesting the user presence attribute information.

12. A presence attribute information server in accordance with claim 1 wherein the access condition entries include a flag which, when an access condition is met, identifies whether access to the associated user presence attribute information is authorized or precluded.

13. A presence attribute information server in accordance with claim 1 further comprising an access validation unit, coupled to the interface unit and the storage unit, the access validation unit being adapted for

receiving a request for user presence attribute information,

receiving one or more of status information of the user requesting the information, the status information of the at least one of item or person associated with the user presence attribute information, and the current time and date,

comparing the same to the one or more corresponding access authorization entries, and

authorizing access to the presence information, if the appropriate access conditions have

been met.

14. A presence attribute information server in accordance with claim 13 wherein the access validation unit includes a set of prestored instructions for execution by the processor.

15. A presence attribute information manager application comprising:

a processor;

an interface unit, coupled to the processor, including a data input device for receiving user presence attribute information from the user and a network interface for transmitting user presence attribute information;

a storage unit, coupled to the interface unit and the processor, including user presence attribute information and associated access authorization information organized and arranged as one or more entries in a data structure;

wherein said access authorization entries are each associated with corresponding user presence attribute information entries, each user presence attribute information entry having a presence attribute value field, corresponding to one or more types of presence attributes, and each access authorization information entry having a user field identifying one or more users and one or more access condition entries, wherein the access condition entries define the conditions when the corresponding user presence attribute information is available to the corresponding identified users.

16. A presence attribute information manager application in accordance with claim 15

wherein said interface unit is further adapted for receiving access conditions associated with one or more users, which are used to formulate access authorization information entries.

17. A presence attribute information manager application in accordance with claim 15 wherein said interface unit further includes a data output device for presenting conditions associated with authorizing access in an iconic format.

18. A presence attribute information manager application in accordance with claim 17 wherein said data input device is further adapted for modifying the conditions being presented by the data output device associated with authorizing access to user presence attribute information associated with one or more users.

19. A presence attribute information manager application in accordance with claim 15 further comprising a broadcast unit, coupled to the interface unit and the storage unit, the broadcast unit being adapted to transmit updated user presence attribute information to at least one of a presence attribute information server and subscribed users, that are currently authorized to receive updates, when the user presence attribute information changes.

20. A presence attribute information manager application in accordance with claim 19 wherein the broadcast unit includes a set of prestored instructions for execution by the processor.

21. A presence attribute information manager application in accordance with claim 15

wherein the presence attribute information manager application is incorporated as part of a portable electronic device.

22. A presence attribute information manager application in accordance with claim 21 wherein the portable electronic device is a wireless radio frequency telephone.

23. A method for managing the access to user presence attribute information comprising:

receiving a request for user presence attribute information;

identifying the user requesting the user presence attribute information;

determining whether the user requesting the information is authorized to have access to the requested user presence attribute information including

receiving any conditions relative to the requesting user associated with receiving access to the information, and

determining whether the received conditions associated with receiving access have been met;

wherein, if the user has met the conditions associated with receiving access, then forwarding the user presence attribute information to the requesting user.



**IX. EVIDENCE APPENDIX**

None

**X. RELATED PROCEEDINGS APPENDIX**

None